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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/832,718	04/11/2001	Daniel L. McConnell	069035.00001	9752

29391 7590 05/07/2004

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EXAMINER

COBURN, CORBETT B

ART UNIT

PAPER NUMBER

3714

DATE MAILED: 05/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/832,718

Applicant(s)

MCCONNELL ET AL.

Examiner

Corbett B. Coburn

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 March 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 7-13 and 24-33.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☒ Other: See Attached

## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's amendments overcome the rejections under 35 USC §112, which are hereby withdrawn. They do not materially change the rejection of the claims under 35 USC §103.

Therefore, these rejections stand.

2. Claims 14-22 have been cancelled by Applicant's Amendment.

### ***Response to Arguments***

3. Applicant's arguments filed 21 March 2004 have been fully considered but they are not persuasive.

4. Applicant argues that Simonelli and Yoshimatso teach away from portability of the device. This is clearly not the case. Simonelli teaches a portable video display – the booth is movable from location to location. But, as pointed out in the office action, it does not teach personal portability – i.e., a head mounted display. Yoshimatso teaches such a head mounted display. Yoshimatso teaches goggles that may be worn by the person using the device.

Applicant's assertion that Yoshimatso teaches away from portability because it teaches a large control unit and cameras is disingenuous at best – Applicant's camera's are not mounted on the viewer, nor is the control unit for controlling those cameras. Furthermore, Applicant's argument is not commensurate with the scope of the claims. Applicant claims that the viewing device is portable –not the camera and their control unit.

5. Applicant's argument that Simonelli's invention is directed to a different concept is spurious. Applicant's "concept" is not at issue and is not germane to the determination of

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obviousness. Applicant's claims are at issue and the combination of Simonelli and Yoshimatso render those claims obvious.

6. Applicant's argument that the "attendees" do not control the live action at the event is not commensurate with the scope of the claims.

7. Applicant's argument with respect to multiple viewers being able to select multiple views is not commensurate with the scope of the claims. The claims do not require that each viewer be able to change views (i.e., cameras) after the selection is made. Furthermore, Simonelli does teach the viewer being able to select between different views (cameras) – the user may observe the front view or the rear view.


### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Corbett B. Coburn whose telephone number is (703) 305-3319. The examiner can normally be reached on 8-5:30, Monday-Friday, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's Primary, Jessica Harrison can be reached on (703) 308-2217. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
cbc  
JESSICA HARRISON  
PRIMARY EXAMINER